

TITLE 40  
HIGHWAYS AND BRIDGES

CHAPTER 1  
DEFINITIONS

40-101. DEFINITIONS. Words and phrases as used in this title are defined in sections [40-102](#) through [40-127](#), Idaho Code.

[40-101, added 1985, ch. 253, sec. 2, p. 587.]

40-102. DEFINITIONS -- A.

(1) (a) "Access easement" also commonly and sometimes legally referred to as a "deeded access" means a property right running with the land and appurtenant thereto for purposes of vehicular ingress and egress at a designated location from private property to the public highway or public right-of-way created by a written document, contract or deed by exception between the state or any political subdivision of the state of Idaho and the landowner. If the easement does not specify the type of use which may be made of the easement, for example, farm access, heavy industrial, etc., the easement is not limited to any type(s) of access.

(b) If the governmental entity with jurisdiction over the road that the property has a "deeded access" to denies the property owner the right to use the easement, the denial shall constitute a taking of the access right for which just compensation shall be owed.

(2) "Activities, commercial or industrial." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(3) "Advertising business, outdoor." (See "Outdoor advertising business," section [40-116](#), Idaho Code)

(4) "Advertising display" means advertising structures and signs.

(5) "Advertising structure(s)" or "structure(s)" or "sign(s)" means any thing designed, intended or used to advertise or inform. "Advertising structure" or "sign" does not include:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice.

(c) Directional, warning or information structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures.

(d) An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of the city or county, provided the same is maintained wholly at public expense. Where a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway, the Idaho transportation board, in its discretion, may grant the city the right to erect and maintain a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. Billboards erected must be at locations consistent with department regulations and safety standards.

(6) "Agency," as applied to highway relocation assistance as provided by [chapter 20, title 40](#), Idaho Code, means any subdivision or entity of state or local government in the state of Idaho authorized by law to engage in any

highway program or perform any highway project in which the acquisition of real property may result in the displacement of any person.

(7) "Alternate technical concept (ATC)" means an alternative to the base technical concept that promotes innovation and is equal or better in quality or effect, as determined by the department in its sole discretion.

(8) "Areas, commercial or industrial, unzoned." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(9) "Areas, urban." (See "Urban areas," section [40-122](#), Idaho Code)

(10) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(11) "Average annual net earnings," for the purposes of section [40-2004](#), Idaho Code, means one-half (1/2) of any net earnings of the business or farm operations, before federal, state and local income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period as the agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during the two (2) year period, or any other period as determined by the agency.

[40-102, added 1985, ch. 253, sec. 2, p. 587; am. 2010, ch. 293, sec. 1, p. 777; am. 2012, ch. 323, sec. 1, p. 882.]

40-103. DEFINITIONS -- B. (1) "Base technical concept" means the project specific concepts and technical information provided in the request for proposals upon which design-build firms will develop their technical and price proposals.

(2) "Best value selection" means any selection process in which proposals contain both price and qualitative components and award is based upon a combination of price and qualitative considerations.

(3) "Board" means the Idaho transportation board.

(4) "Business" means any lawful activity, excepting a farm operation, conducted primarily for the purchase, resale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or other personal property; for the sale of services to the public; or solely for the purpose of section [40-2004](#)(1), Idaho Code, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not displays are located on the premises on which any of the activities are conducted.

(5) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

[40-103, added 1985, ch. 253, sec. 2, p. 588; am. 2010, ch. 293, sec. 2, p. 778.]

40-104. DEFINITIONS -- C. (1) "City system" means all public highways within the corporate limits of a city, with a functioning street department, except those highways which are under federal control, a part of the state highway system, part of a highway district system or an extension of a rural major collector route as specified in section [40-607](#), Idaho Code.

(2) "Commercial activities." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(3) "Commercial areas, unzoned." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(4) "Commissioners" means the board of county commissioners of a county of this state.

(5) "Construction manager/general contractor firm" means a business entity with which the department has contracted to provide services prior to the final design phase and provide for the construction of the project during the construction phase.

(6) "Construction manager/general contractor project" means a project where the department retains a consultant or has on staff an Idaho licensed professional engineer to develop the design and also hires a construction manager/general contractor firm to provide services prior to the final design. If a guaranteed maximum price is negotiated successfully, the construction manager/general contractor firm also provides for construction of the project.

(7) "Consultant" means an individual or business entity possessing the qualifications to provide licensed architectural, licensed engineering, or licensed land surveying services or possessing specialized credentials and qualifications.

(8) "Controlled-access facility" means a highway especially designed for through traffic to which owners or occupants of abutting land have no right or easement or only a controlled right or easement of access by reason of the fact that their property abuts upon the controlled-access facility. These highways may be freeways open to use by all customary forms of highway traffic, or they may be parkways from which trucks, buses and other commercial vehicles shall be excluded.

(9) "County highway system" or "county secondary highways" mean all public highways in a county except those included within the state highway system, those under another state agency, those included within city highway systems of incorporated cities, those included within a highway district highway system, and those under federal control.

[40-104, added 1985, ch. 253, sec. 2, p. 588; am. 1986, ch. 328, sec. 1, p. 803; am. 1994, ch. 324, sec. 1, p. 1039; am. 2010, ch. 293, sec. 3, p. 778.]

40-105. DEFINITIONS -- D. (1) "Department" means the Idaho transportation department.

(2) "Design-build contract" means a single contract between the department and a design-build firm to furnish the architectural or engineering and related design services, labor, material, supplies, equipment, and construction services for the highway project.

(3) "Design-build firm" means a sole proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation or legal entity qualified to design and build highway projects.

(4) "Design-build project" means a project for which both the design and construction of the project are procured by the department in a single contract with a design-build firm capable of providing the necessary design services and construction.

(5) "Designer" means a duly licensed individual or business entity who performs the engineering design and related design work for a design-build firm.

(6) "Designer qualifications" means the criteria used to evaluate the design-build firm's designer(s).

(7) "Director" means the director of the Idaho transportation department.

(8) "Displaced person" means any individual, family, business or farm operation which moves from real property or moves personal property from real property acquired for a program or project of a state or local agency, in whole or in part, or as the result of a written order of an acquiring agency to vacate real property for a program or project of a state or local agency, and, solely for the purposes of section [40-2004](#), Idaho Code, as a result of a written order of an acquiring agency to vacate other real property, on which a person conducts a business or farm operation, for a program or project of any state or local agency.

(9) "Draw" means making a cash demand on the proceeds of transportation bonds or notes issued by the Idaho housing and finance association as it pertains to section [40-718](#), Idaho Code.

(10) "Dump" means any place or area, not operated as a business, where junk is deposited, stored or kept.

[40-105, added 1985, ch. 253, sec. 2, p. 588; am. 2005, ch. 378, sec. 1, p. 1217; am. 2010, ch. 293, sec. 4, p. 779.]

#### 40-106. DEFINITIONS -- E.

(1) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. With respect to certain easements held by the state restricting the erection of structures on certain lands, the state of Idaho and the department shall be deemed to have waived such restrictions with regard only to each sign erected prior to October 22, 1965.

(2) "Expenditure" means the awarding of a contract, franchise or authority to another by a district, and every manner and means whereby the highway district disburses district funds or obligates itself to disburse district funds. "Expenditure" does not include disbursement of district funds to regularly employed highway district employees, officials or agents, or for the performance of personal services to the district, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions, or an agency of the federal government.

(3) "Expense of the public" means the expenditure of funds for roadway maintenance by any governmental agency, including funds expended by any agency of the federal government, so long as the agency allows public access over the roadway on which the funds were expended and such roadway is not located on federal or state-owned land.

[40-106, added 1985, ch. 253, sec. 2, p. 589; am. 1993, ch. 412, sec. 1, p. 1505; am. 2003, ch. 67, sec. 1, p. 226.]

40-107. DEFINITIONS -- F. (1) "Facilities" mean tracks, pipes, mains, conduits, cables, wires, towers, poles, equipment and appliances.

(2) "Family" means two (2) or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

(3) "Farm operation" means any activity conducted primarily for the production of agricultural products or commodities, including timber, for sale and home use, and producing agricultural products or commodities in sufficient quantity to contribute materially to the operator's support.

(4) "Feeder highway" means any highway which, in the opinion of the transportation board, is needed to create or facilitate access to a turnpike project upon which a toll is charged for transit.

(5) "Federal land rights-of-way" mean rights-of-way on federal land within the context of revised statute 2477, codified as 43 U.S.C. 932, and other federal access grants and shall be considered to be any road, trail, access or way upon which construction has been carried out to the standard in which public rights-of-way were built within historic context. These rights-of-way may include, but not be limited to, horse paths, cattle trails, irrigation canals, waterways, ditches, pipelines or other means of water transmission and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads and all other ways.

(6) "Final design" means any design activities following preliminary design and includes the preparation of final construction plans and detailed specifications for the performance of construction work.

(7) "Fixed price-best design" means a selection process in which the contract price is established by the department and stated in the request for proposals. Design solutions and other qualitative factors are evaluated and rated, with award going to the design-build firm offering the best qualitative proposal for the established price.

[40-107, added 1985, ch. 253, sec. 2, p. 589; am. 1993, ch. 142, sec. 2, p. 376; am. 2010, ch. 293, sec. 5, p. 780.]

40-108. DEFINITIONS -- G. (1) "GARVEE" means grant anticipation revenue vehicle, a debt financing instrument which enables states to finance state transportation infrastructure projects and to pay debt service and other bond-related expenses with future federal-aid highway apportionments.

(2) "Guaranteed maximum price (GMP)" means the total maximum price that includes all reimbursable costs and fees, except for material changes in the scope of work, for completion of a construction manager/general contractor contract that is provided by the selected contractor and accepted by the department.

[40-108, added 2005, ch. 378, sec. 2, p. 1218; am. 2010, ch. 293, sec. 6, p. 780.]

40-109. DEFINITIONS -- H.

(1) "Highway district system" means all public highways within each highway district, except those included within the state highway system,

those under another state agency, those included within city highway systems of incorporated cities with a functioning street department, and those under federal control.

(2) "Highway system, county." (See "County highway system," section [40-104](#), Idaho Code)

(3) "Highway system, state." (See "State highway system," section [40-120](#), Idaho Code)

(4) "Highway users' fund bonds" mean those bonds issued for and on behalf of dissolved city highway systems or highway districts, and the funds out of which those bonds are repayable shall be the moneys received or provided by section [40-707](#), Idaho Code.

(5) "Highways" mean roads, streets, alleys and bridges laid out or established for the public or dedicated or abandoned to the public. Highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of the highways. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as such for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways.

[40-109, added 1985, ch. 253, sec. 2, p. 589; am. 1986, ch. 328, sec. 2, p. 804; am. 1988, ch. 184, sec. 1, p. 322; am. 1994, ch. 324, sec. 2, p. 1040.]

#### 40-110. DEFINITIONS -- I.

(1) "Improved highway" means a graded and drained earth traveled way or better, to include one graded and graveled or with paved surface, and a graded and drained earth highway means a traveled way of natural earth, aligned and graded to permit reasonably convenient use by motor vehicles, and drained by a longitudinal and transverse system, natural or artificial, sufficient to prevent serious impairment of the highway by surface water.

(2) "Individual" means a person who is not a member of a family.

(3) "Industrial activities." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(4) "Industrial areas, unzoned." (See "Unzoned commercial or industrial areas," section [40-122](#), Idaho Code)

(5) "Information center" means any area or site established and maintained at a safety rest area on an interstate or primary highway by or under the supervision or control of the department, where panels for the display of advertising and informational signs may be erected and maintained.

(6) "Interchange area" means the commencing or ending at the beginning of pavement widening at the exit or entrance to the main traveled way of an interstate, primary freeway, or turnpike project.

(7) "Interstate system" or "interstate highway" means any portion of the national system of interstate and defense highways located within the state, as officially designated or as may be hereafter so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways".

[40-110, added 1985, ch. 253, sec. 2, p. 590.]

## 40-111. DEFINITIONS -- J.

(1) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; junk, dismantled, or wrecked automobiles, or their parts; iron, steel and other scrap ferrous or nonferrous material.

(2) "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

[40-111, added 1985, ch. 253, sec. 2, p. 591.]

40-113. DEFINITIONS -- L. (1) "Lawfully maintained" means a sign maintained on private land in accordance with state law and with the consent or acquiescence of the owner, or his agent, of the property upon which the sign is located.

(2) "Local highway technical assistance council" means the public agency created in [chapter 24, title 40](#), Idaho Code.

(3) "Local highway jurisdiction" means a county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district.

(4) "Lowest price technically acceptable selection" means a type of process for selection of a design-build firm in which the department identifies evaluation factors that establish the minimum requirements of acceptability. Proposals are evaluated for acceptability based on qualitative factors, not cost or price, but are not ranked. The contract award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for qualitative factors.

[40-113, added 1985, ch. 253, sec. 2, p. 591; am. 1994, ch. 280, sec. 1, p. 868; am. 2010, ch. 293, sec. 7, p. 781.]

40-114. DEFINITIONS -- M. (1) "Main traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(2) "Maintain" or "place" means to allow to exist, subject to the provisions of [chapter 19, title 40](#), Idaho Code.

(3) "Maintenance" means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or public right-of-way in a suitable state for use including, without limitation, snow removal, sweeping, litter control, weed abatement and placement or repair of public safety signage.

(4) "Mortgage" means a class of liens, including deeds of trust, as are commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the state of Idaho, together with the credit instruments, if any, secured by it.

[40-114, added 1985, ch. 253, sec. 2, p. 591; am. 2013, ch. 239, sec. 2, p. 560.]

40-116. DEFINITIONS -- O. (1) "Organizational conflict of interest" means that, because of other activities or relationships with other persons or entities, a person or entity is unable or potentially unable to render impartial assistance or advice to the department or the person's or entity's



objectivity in performing the contract work is or might be otherwise impaired, or a person or entity has an unfair competitive advantage.

(2) "Outdoor advertising business" means the business or occupation of placing, erecting, constructing or maintaining advertising structures or signs. The term does not include the placing, erecting, constructing or maintaining of advertising displays exclusively pertaining to the business of the person placing the advertising display, but does include a person whenever he personally or through employees places advertising displays containing advertising which does not pertain exclusively to his own business.

(3) "Owner" means all persons and all political subdivisions of the state having any title or interest in any property, rights, easements and interests authorized to be acquired by [chapter 3, title 40](#), Idaho Code.

[40-116, added 1985, ch. 253, sec. 2, p. 591; am. 2010, ch. 293, sec. 8, p. 781.]

40-117. DEFINITIONS -- P. (1) "Person" includes every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors.

(2) "Place." (See "Maintain," section [40-114](#), Idaho Code)

(3) "Preliminary design," as used in section [40-904](#), Idaho Code, means the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analyses, hydraulic analyses, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials and other work needed to establish parameters for the final design.

(4) "Price proposal" means the price submitted by a design-build firm to provide the required design and construction services described in the request for proposals or the price submitted by a construction manager/general contractor firm to provide the required construction services described in the request for proposal.

(5) "Primary system" or "primary highway" means any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways."

(6) "Public highway agency" means the state transportation department, any city, county, highway district or other political subdivision of the state with jurisdiction over public highway systems and public rights-of-way.

(7) "Public highways" means all highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (Also see "Highways," section [40-109](#), Idaho Code)

(8) "Public land survey corner" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the United States general land office and the United States department of interior, bureau of land management.



(9) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain, but may expend funds for the maintenance of, said public right-of-way or post traffic signs for vehicular traffic on said public right-of-way. In addition, a public right-of-way includes a right-of-way which was originally intended for development as a highway and was accepted on behalf of the public by deed of purchase, fee simple title, authorized easement, eminent domain, by plat, prescriptive use, or abandonment of a highway pursuant to section [40-203](#), Idaho Code, but shall not include federal land rights-of-way, as provided in section [40-204A](#), Idaho Code, that resulted from the creation of a facility for the transmission of water. Public rights-of-way shall not be considered improved highways for the apportionment of funds from the highway distribution account.

(10) "Public street" means a road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency.

(11) "Public transportation services" means, but is not limited to, fixed transit routes, scheduled or unscheduled transit services provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car pooling services; transportation services unique to social service programs; and the management and administration thereof.

[40-117, added 1985, ch. 253, sec. 2, p. 591; am. 1993, ch. 412, sec. 2, p. 1506; am. 2000, ch. 252, sec. 1, p. 716; am. 2000, ch. 417, sec. 1, p. 1328; am. 2010, ch. 293, sec. 9, p. 781; am. 2011, ch. 136, sec. 1, p. 383.]

40-119. DEFINITIONS -- R. (1) "Reference point" means a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is known and recorded, and that serves to locate the corner.

(2) "Request for proposals (RFP)" means a document used to solicit proposals from design-build firms to design and construct a highway project or to solicit proposals from construction manager/general contractor firms to provide services prior to final design and then construct a highway project.

(3) "Request for qualifications (RFQ)" means a document issued by the department in the first step of a two-step selection process that describes the project in enough detail to let potential design-build firms determine if they wish to compete and forms the basis for developing a short-list of the most qualified design-build firms.

(4) "Responsive proposals" means proposals submitted by responsive proposers that comply with the request for proposals and all prescribed procurement procedures and requirements.

[40-119, added 2010, ch. 293, sec. 10, p. 782; am. 2011, ch. 136, sec. 2, p. 384.]

40-120. DEFINITIONS -- S. (1) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for convenience of the traveling public.

(2) "Short-listing" means the narrowing of the field of potential design-build firms through the selection of the most qualified design-build firms who have responded to a request for qualifications.

(3) "Sign." (See "Advertising structure," section [40-102](#), Idaho Code)

(4) "Single countywide highway district" means all public highways within the county, including those within all cities of the county, but excepting those within the state highway system and those under federal control.

(5) "State highway system" means the principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state.

(6) "State law" means a provision of the constitution or statutes of this state, or an ordinance, rule or regulation enacted or adopted by an agency or political subdivision of this state pursuant to the constitution or statutes.

(7) "Stipend" means a monetary amount that may be paid to unsuccessful design-build firms who have submitted responsive proposals in response to an RFP. The purpose of a stipend is to encourage competition by offering to compensate responsive but unsuccessful design-build firms for a portion of the proposal development costs.

(8) "Street" means a thoroughfare, alley, highway or a right-of-way that may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency.

(9) "Structure." (See "Advertising structure," section [40-102](#), Idaho Code)

(10) "System, city." (See "City system," section [40-104](#), Idaho Code)

[40-120, added 1985, ch. 253, sec. 2, p. 592; am. 2010, ch. 293, sec. 11, p. 783; am. 2011, ch. 136, sec. 3, p. 385.]

40-121. DEFINITIONS -- T. (1) "Technical proposal" means that portion of a design-build firm proposal that contains design solutions and other qualitative factors that are provided in response to a request for proposals.

(2) "Tourist related advertising sign" means any sign which advertises a specific public or private facility, accommodation or service, at a particular location or site, including: overnight lodging, a camp site, food service, recreational facility, tourist attraction, education or historical site or feature, automotive service, facility or garage.

(3) "Turnpike project" means any express highway or bridge at locations and between terminals as may be established by the board and constructed or to be constructed under the provisions of [chapter 4, title 40](#), Idaho Code, and shall include all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings, which the board may deem necessary for the operation of a project, together with all property, rights, easements, and interests which may be acquired by the board for the construction or the operation of a project.

(4) "Turnpike revenue bonds" mean bonds of the transportation board authorized under the provisions of section [40-412](#), et seq., Idaho Code.

(5) "Two-step selection" means a procurement process in which the first step consists of short-listing based on statements of qualifications submitted in response to a request for qualifications and the second step con-

sists of the submission of price and technical proposals in response to a request for proposals.

[40-121, added 1985, ch. 253, sec. 2, p. 592; am. 2010, ch. 293, sec. 12, p. 783.]

40-122. DEFINITIONS -- U.

(1) "Unzoned commercial or industrial areas" mean those areas not zoned by state or local law, regulation or ordinance which are occupied by industrial or commercial activities, other than outdoor advertising signs, and the lands along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

"Commercial or industrial activities" mean those activities generally recognized as commercial or industrial by zoning authorities in the state, except that none of the following activities shall be considered commercial or industrial:

- (a) Agricultural, forestry, grazing, farming and related activities including wayside fresh produce stands.
- (b) Transient or temporary activities.
- (c) Activities not visible from the main traveled way.
- (d) Activities conducted in a building principally used as a residence.
- (e) Railroad tracks and minor sidings.

(2) "Urban areas" mean any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to shall be determined by the latest United States census.

(3) "Utility" means any publicly, privately or cooperatively owned utility.

[40-122, added 1985, ch. 253, sec. 2, p. 593.]

40-123. DEFINITIONS -- V.

(1) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

[40-123, added 1985, ch. 253, sec. 2, p. 593.]

40-124. DEFINITIONS -- W. "Witness corner" means a monumented point on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

[40-124, added 2011, ch. 136, sec. 4, p. 385.]